



# NEWS RELEASE

## Administrative Office of the U.S. Courts

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### **Judiciary Asks for Staffing, Funding In Face of Rising Workload**

Concerned that resources will not keep pace with an expanding workload, Judiciary representatives today asked Congress for a 10.8 percent increase in the Judiciary's budget for Fiscal Year 2004.

"The workload of the Judiciary. . . truly is uncontrollable," Judge John G. Heyburn said. "The Judiciary has no major program which can be cut or deferred, only the people who provide those services, the systems that support them, and the facilities that house them. Therefore when funding is reduced the only place the reduction can be taken is in the staff and supporting systems that perform those essential services."

Judge Heyburn, chair of the Judicial Conference Committee on the Budget, and Administrative Office Director Leonidas Ralph Mecham, in a joint hearing with Benigno G. Reyna, Director of the United States Marshals Service, testified before the House Appropriations Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies.

Judge Heyburn told the Subcommittee that the Judiciary's budget request for FY 2004 is necessary to maintain the courts' current staffing and operations and to allow the courts to handle the growing workload and other critical needs. "While we are not at a point where I would use the term crisis," Judge Heyburn testified, "I am very concerned about certain workload indicators that I believe are heading in the wrong direction, likely as a result of resource shortfalls."

According to testimony, for all accounts the Judiciary is requesting a \$530 million increase in appropriations over the enacted appropriations for the current fiscal year. Nearly two-thirds of this requested increase (\$338 million) is required to maintain current operations with pay and benefit adjustments, inflationary adjustments, increases in General Services Administration space rental costs, an increase in filled Article III judgeships, and continued security measures. The remaining one-third (\$192 million) is primarily to provide for programmatic and workload related needs such as high-profile terrorist trials, the unprecedented number of bankruptcy filings, and significant increases in the probation and pretrial services workload as criminal filings continue to rise and the number of offenders released into the community with a need for drug and mental health treatment steadily increases.

The courts experienced record workload increases in fiscal year 2002. Bankruptcy filings grew 8 percent; civil filings in the U.S. district courts climbed 10 percent; and criminal cases rose 7 percent. The number of persons under probation supervision rose 4 percent, and defendants in cases opened in the pretrial services systems grew 4 percent.

Director Mecham also observed that providing for the Judiciary's security is a top priority. "Today, the federal courts are at risk from domestic and international terrorists, organized domestic and international criminal organizations, and litigants distressed at the outcome of their individual cases," said Director Mecham. He warned that security threats to the federal judicial system likely will continue to increase and asked for the support necessary to enhance judicial security and ensure the safe and uninterrupted delivery of justice.

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“I urge the Subcommittee, as you determine your funding priorities in this constrained environment,” said Judge Heyburn, “to consider providing the federal courts with the resources required to perform the very important functions assigned to them by the Constitution and the Congress. Without the funding increases needed to address growing workload, I believe the judicial system, and those who depend on it to resolve disputes, will begin to suffer.”

Among the pressing issues faced by the Judiciary are:

### **Losses in Judicial Pay**

Judiciary representatives noted that federal judicial salaries have lost 24 percent of their purchasing power since 1969, and there has been a significant increase in the number of Article III judges leaving prematurely the bench since 1990. Judge Heyburn noted that the recent report of the National Commission on the Public Service recommended “Congress should grant an immediate and significant increase in judicial, executive, and legislative salaries to ensure a reasonable relationship to other professional opportunities.”

### **The Need for New Judgeships**

There has been no major judgeship bill creating Article III judgeships since 1990 and no bankruptcy judgeship bill since 1992, despite substantial increases in workload. Judge Heyburn told the subcommittee the need for additional appellate, district and bankruptcy judgeships is critical and asked for their support for the Judicial Conference request for 57 new Article III judgeships and 36 new bankruptcy judgeships.

### **Sufficient Staff to Match Workloads**

Court support staff, along with pretrial services and probation officers, keep the wheels of justice running smoothly. The number of staff is controlled by precise formulas that allocate funds for more, or fewer, staff to meet workload requirements. Present appropriation levels will not allow the Judiciary to fully fund sufficient staff to keep pace with the steadily growing workload. Judge Heyburn warned that this gap between needed staff levels and actual funded staff levels continues to grow.

### **Sufficient Resources for Probation and Pretrial Services Officers**

Federal probation and pretrial services officers protect the public through the investigation and supervision of defendants and released offenders within the federal criminal justice system. The number of persons they have under supervision has increased by 16 percent since 1998, and the trend is expected to continue for fiscal years 2003 and 2004. Many of those under supervision with drug and mental health problems pose a danger to the community. “With insufficient staffing resources and limited funds for programs that help offenders become productive members of our communities, we increase the risk to those communities,” said Judge Heyburn.

### **Adequate Compensation for Panel Attorneys**

Panel attorneys, attorneys appointed by judges under the Criminal Justice Act, continue to be underpaid compared to rates paid by many federal agencies to private lawyers. The General Accounting Office found that the average hourly fees paid to private counsel by government agencies ranged from \$125 to \$357. The Judicial Conference seeks a nationwide \$113 hourly rate for CJA attorneys, and an increase—the first since 1996—to \$157 for panel attorney compensation in capital cases.

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### **Safety of the Courts and the Public Who Visit**

“In these troubled times when courthouses are such visible targets for terrorists,” said Judge Heyburn, “our Court Security program is more critical than ever.” In fiscal year 2002, the Judiciary’s security process detected 641,489 weapons and other items prohibited in courthouses. In that same time period, the U.S. Marshals Service reported the detention or arrest of 16 persons related to security breaches in courthouses. Judge Heyburn asked that the 106 supervisory deputy marshal positions approved in FY 2002 and transferred to the Department of Justice in 2003, positions he called “a linchpin to effective security of our courthouses,” continue to be dedicated to courthouse security.

### **Remaining Competitive in the Employment Market**

A flexible benefits plan, offering long-term care insurance and pre-tax benefits in flexible spending accounts for health care and dependent care, payment of health insurance premiums, and commuter reimbursement, has made the Judiciary a leader in offering enhanced benefits to its employees. These benefits were implemented within the existing statutory framework and without requiring additional funds. But to stay competitive in an era when skilled workers change jobs frequently, the Judiciary would like to do more by seeking legislation and funding to establish a cafeteria-style benefits program that would be funded in part by a modest per-employee contribution by the Judiciary. “The combined employee and employer contributions,” said Judge Heyburn, “could eventually be used to purchase benefits from a menu of choices such as dental insurance, vision insurance, leave conversion, expanded commuter subsidies, short- and long-term disability, and prescription drug insurance and mental health insurance. . .”

### **Continued Program Leadership and Support from the Administrative Office**

The Administrative Office of the U.S. Courts is the central support agency for the federal courts. The AOUSC’s responsibility for judicial administration, program management, and oversight led, after 9-11, to the establishment of a permanent Judiciary Emergency Preparedness Office, the development of Continuity of Operation Plan templates, and preparations for an off-site Court Operations Support Center. This planning will ensure support to the courts continues uninterrupted in the event of a crisis. The AOUSC also provides support and advice to courts facing more high profile and security-sensitive criminal proceedings. In day-to-day activities, the AOUSC continues to work with the courts to ensure efficient and effective use of resources. The AOUSC does this work at a staffing level that has remained essentially the same over the last ten years, while court staffing has grown by 20 percent. Three-fourths of the AOUSC’s FY 04 funding request will support adjustments to base, mainly standard pay and general inflationary increases, with the remaining one-fourth to provide nine additional positions for program and security oversight.

### **Support for Judicial Branch Education and Research**

The Federal Judicial Center is the Judiciary’s education and research arm. The FJC’s research supports the work of the Judicial Conference and its committees. Its judicial education programs provide updates on statutory and caselaw developments, on innovations in managing cases, and on such specialized topics as admissibility of scientific evidence. Other programs enhance management skills of judges and court staff, stress the importance of economy in administration, and help court executives who must deal with employee unease and insecurity in these troubled times. The Center presents the great majority of its education by satellite and the Web. In 2004, the FJC requests educational technology positions to support its programs, and, at the urging of judges around the country, seeks to restore its basic judicial education programs to a 12-month cycle, rather than the current 18-month cycle.